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SEP 28 2010
STATE BAR COURT
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REVIEW DEPARTMENT OF THE STATE BAR COURT
IN BANK

In the Matter of)	Case No.: 08-C-10310
)	
ELROY RICHARD GIDDENS)	
)	RECOMMENDATION OF SUMMARY
)	DISBARMENT
A Member of the State Bar.)	
_____)	

On September 3, 2010, the State Bar filed a request for recommendation of summary disbarment based on Elroy R. Giddens's felony convictions. Giddens did not file a response. We grant the request and recommend that Giddens be summarily disbarred.

On November 20, 2008, Giddens pled guilty to felony violations of title 18 United States Code sections 371 (conspiracy to defraud government with use of false document in violation of 18 U.S.C. §1001) and 1344(1) and 2 (aiding and abetting bank fraud) and title 26 United States Code section 7206(1) (filing false tax return). Effective July 6, 2009, we placed Giddens on interim suspension. On September 3, 2010, the State Bar transmitted evidence that Giddens's conviction was final.

After the judgment of conviction becomes final, "the Supreme Court shall summarily disbar the attorney if the offense is a felony . . . and an element of the offense is the specific intent to deceive, defraud, steal, or make or suborn a false statement, or involved moral turpitude." (Bus. & Prof. Code, § 6102, subd. (c).)

The record of conviction establishes that Giddens's offenses meet the criteria for summary disbarment under Business and Professions Code section 6102, subdivision (c). First, they are felonies. Second, each crime involves moral turpitude.

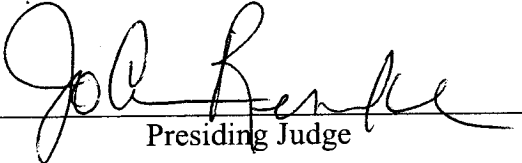
The moral turpitude classification of the crime of conspiracy depends upon the object of the conspiracy. (*In re McAllister* (1939) 14 Cal.2d 602, 603 [if the commission of an offense involves moral turpitude, then a conspiracy to commit the offense would also involve moral turpitude].) Giddens's conviction of conspiring to defraud the government by using false documents in violation of title 18 United States Code section 1001 requires a statement be made with knowledge of its falsity. (*U.S. v. Yermian* (1984) 468 U.S. 63, 64-65; *U.S. v. Boone* (9th Cir. 1991) 951 F.2d 1526, 1544 [essential elements of violation of 18 U.S.C. §1001 are statement, falsity, materiality, specific intent and agency jurisdiction].) Intentionally making false statements involves moral turpitude. (*Chefsky v. State Bar* (1984) 36 Cal.3d 116, 124.)

Giddens's act of aiding and abetting bank fraud also involves moral turpitude. One who aids and abets a crime acts with the specific intent required for commission of that particular crime. (*U.S. v. Andreen* (9th Cir. 1980) 628 F.2d 1236, 1245.) An essential element of bank fraud is the specific intent to defraud. (*U.S. v. Ragosta* (2nd Cir. 1992) 970 F.2d 1085, 1091; *U.S. v. Mancuso* (E.D.N.C. 1992) 799 F.Supp. 567, 573-574.) Crimes involving the intent to defraud involve moral turpitude. (*In re Kelley* (1990) 52 Cal.3d 487, 494.)

Finally, filing a false tax return under title 26 United States Code section 7206(1) involves moral turpitude because a conviction under this statute requires the government prove that a defendant specifically intended the return to be false. (*U.S. v. Friedland* (D.N.J. 1980) 502 F.Supp 611, 619.) Intentionally making such false statements, necessarily involves moral turpitude. (*Chefsky v. State Bar, supra*, 36 Cal.3d. at p. 124.)

When an attorney's conviction meets the requirements of Business and Professions Code section 6102, subdivision (c), "the attorney is not entitled to a State Bar Court hearing to determine whether lesser discipline is called for." (*In re Paguirigan* (2001) 25 Cal.4th 1, 7.) Disbarment is mandatory. (*Id.* at p. 9.)

We therefore recommend that Elroy Richard Giddens, State Bar number 50589, be disbarred from the practice of law in this state. We also recommend that he be ordered to comply with rule 9.20 of the California Rules of Court and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court's order. Finally, we recommend that the costs be awarded to the State Bar in accordance with section 6086.10 of the Business and Professions Code and that such costs be enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.


Presiding Judge

CERTIFICATE OF SERVICE
[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on September 28, 2010, I deposited a true copy of the following document(s):

**RECOMMENDATION OF SUMMARY
DISBARMENT FILED SEPTEMBER 28, 2010**

in a sealed envelope for collection and mailing on that date as follows:

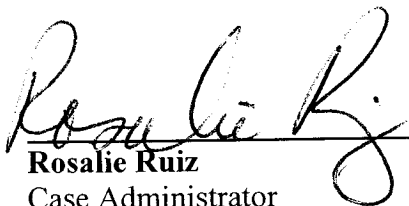
- [X] by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

**ELROY R GIDDENS
529 N MCKINLEY #104-502
CORONA, CA 92879**

- [X] by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

KRISTEN RITSEMA, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on September 28, 2010.



Rosalie Ruiz
Case Administrator
State Bar Court